IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1485 of 1987

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHANBHUGHAR RABHUNATHGHAR GOSWAMI
Versus
VANTHALI NAGAR PANCHAYAT AND ANOTHER

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Appearance :
MR MEHUL S SHAH for Petitioner,MR SURESH M SHAH for Petitioner.
NOTICE SERVED for Respondents.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 21/08/2006

ORAL JUDGMENT

By filing this petition, the petitioner has prayed for quashing and setting aside the order at Annexure-C, passed by Vanthali Nagar Panchayat on 4-4-1987, by which the petitioner was relieved from service on the ground that the petitioner is not remaining present for

duty and it seems that he is willing to work.

This Court while admitting the matter has passed following order as back as on April 12, 1988:

> "Rule.
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> In the facts and circumstances of the case the respondents are directed to file affidavit-in-reply before July 31, 1988. Thereafter it will be open to the petitioner to request the Court for fixed date of hearing. In the facts and circumstances of the case it is directed that if the petitioner reports for duty to the post of Sanitary Inspector on or before April 30, 1988 the respondent-Panchayat shall permit him to join on the post of Sanitary Inspector. It is clarified that the aforesaid step that may be taken by the petitioner as well as by the respondent-Panchayat shall be without prejudice to the rights of the parties, to contend that the petitioner was not entitled to perform duties of Sanitary Inspector and the petitioner also may contend that he was so entitled and that he was even entitled to claim benefits of the higher post. If the petitioner does not report for duty on or before April 30, 1988 the fact shall be reported to this Court by the Nagar Panchayat and the respondent Nagar Panchayat shall seek appropriate modification of the aforesaid order. In case it is necessary for the Nagar Panchayat to notify to the Government about the performance of duty by the petitioner on the post of Sanitary Inspector, this order itself shall be sent to the Government by the Panchayat."

Today, the matter has reached final hearing.

Mr.Mehul Shah, learned advocate for the petitioner submitted that as per the service record, his client was aged 40 years in the year 1982-

1983. He submitted that in view of aforesaid record, even if the petitioner had continued in service, he must have reached the age of superannuation by now, in view of long passage of time. He submitted that in that view of the matter, this petition is required to be disposed of as having become infructuous, as there is no question to continue the petitioner in service since he has crossed the age of superannuation. He fairly submitted that his client is not in his contact.

Though served nobody has appeared on behalf of the respondents.

I find substance in the say of Mr.Shah, learned advocate for the petitioner that the petitioner must have reached the age of superannuation by this time, therefore, there is no question of continuing the petitioner in service.

In view of above position, it is not necessary to keep this matter pending. Since the respondents have not appeared to assist the Court and no reply is filed, this petition is required to be disposed of by considering the say of Mr.Shah that the petitioner has reached the age of superannuation and there is no question of continuing him in service. Considering said aspect of the matter, this petition is required to be disposed of as it has become infructuous.

Accordingly, this petition is disposed of as having become infructuous. Rule is discharged with no order as to costs. Interim relief granted earlier stands vacated. Liberty to apply in case of difficulty.

(P.B.Majmudar, J.)

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